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NO. _____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1981

EDDIE THOMPSON, JR.,
Plaintiff-Petitioner,

vs.

COVINGTON HOUSING DEVELOPMENT CORPORATION, JOSEPH CONDIT AND JUNE HEDRICK,
Defendants-Respondents.

Response to Petition for a Writ of Certiorari to The United States Court of Appeals for the Sixth Circuit

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BRIEF IN OPPOSITION

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APPELLEES' STATEMENT OF THE CASE

Appellees, Condit, Hedrick and the City of Covington wish to correct one error of fact in Thompson's Statement of the Case. The City of Covington would not pay a default judgment against the Covington Housing Development Corporation because it was not a party defendant in

the original action, not because it was not described as having a principal-agency relationship with the Development Corporation in the judgment of June 2, 1980. (Appendix G, p. 13a).

SUMMARY OF ARGUMENT

The appellant, Thompson, failed to file a timely notice of appeal with the Sixth Circuit Court of Appeals from the trial court's order of September 12, 1980, denying his motion to alter and amend the judgment of June 2, 1980, by reciting that the Covington Housing Development Corporation was an agency of the City of Covington. The Sixth Circuit Court of Appeals therefore lost jurisdiction to entertain Thompson's appeal.

Thompson's appeal was without merit in any event. The trial court over-ruled Thompson's motion to alter and amend a default judgment Thompson had against a defunct corporation, the Covington Housing Development Corporation. Thompson wanted the trial court to recite that the defunct corporation was an agency of the City of Covington thinking that this would make the City liable for the Fifty-three Thousand ($53,000.00) Dollar judgment. The appellees argue that if the City was not a party to the original action it cannot be made a party to the judgment.

ARGUMENT

Appellees, Condit, Hedrick and the City of Covington, amicus curiae, submit to the Court that there are no special and important reasons to review the judgment of the Sixth Circuit Court of Appeals and that none of the considerations listed in Rule 17 of the Supreme Court of the United States apply.

The Sixth Circuit Court of Appeals ruled that duplicative motions to reconsider the trial court's judgment will not continue to toll the statutory time period in which to file a Notice of Appeal from the judgment. The Court cites: *Marten* v. *Hess,* 176 F.2d 834 (Cir. 1949); *Deena Products Co.* v. *United Brick and Clay Workers,* 195 Fed. 613 (6th Cir. 1952); *Dixie Sand and Gravel Co., Inc.* v. *T.V.A.,* 631 F.2d 73 (5th Cir. 1980). Thompson filed his Notice of Appeal seventy-two (72) days after the trial court over-ruled his first motion to alter and amend.

The issue Thompson wants decided on appeal is whether the trial court should have recited in the default judgment against the Covington Housing Development Corporation that the defunct corporation was an agency of the City of Covington, Kentucky. Thompson thinks that recitation of agency would make the City of Covington liable for the Fifty-three Thousand ($53,000.00) Dollar default judgment against the defunct corporation.

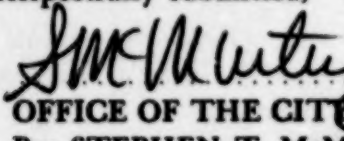
To quote the trial court's order of October 9, 1981, (Appendix E, p. 11a):

> "Plaintiff's problem in this case, and many of the other cases he has brought, is that he persists in representing himself, rather than obtaining legal representation, which causes him to pursue erroneous courses of action unauthorized by the Federal Rule of Civil Procedure, which the Court cannot grant."

CONCLUSION

The Supreme Court should deny certiorari.

Respectfully submitted,



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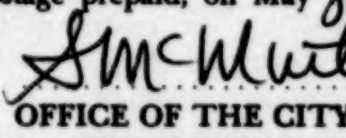
CERTIFICATE OF SERVICE

I certify that three (3) copies of this brief in opposition were served on Eddie Thompson, Jr., P.O. Box 1221, Covington, Kentucky 41012, by mailing these documents to him first class postage prepaid, on ~~May~~ June, 1982.



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